

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

RECEIVED
Jul 6 3 36 PM '01
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

FILING ONLINE

Docket No. RM2001-2

PRELIMINARY COMMENTS OF UNITED STATES POSTAL SERVICE
ON PROPOSED ELECTRONIC FILING PROCEDURES
July 6, 2001

In response to Order No. 1317,¹ the Postal Service is filing preliminary comments to facilitate discussion at the technical conference scheduled for July 11, 2001. The Commission proposes procedures that would provide for the electronic filing and service of documents, building on the Commission's existing website. The advantages of electronic filing — elimination of participants' printing, copying and distribution costs when filing pleadings — are immediately apparent. These advantages are offset to some degree by any printing, copying, and internal distribution costs incurred by parties receiving such documents. This is alleviated somewhat if parties are able to further distribute them electronically.

The proposed procedures, on first consideration, raise a number of questions that the Postal Service believes would be useful for the Commission and other participants to address at the technical conference and as these proceedings progress:

1. *Should the Filing Online procedures be tested first as special rules in a future case?*

The Commission's Order anticipates a revision of the Rules of Practice to accommodate electronic filing procedures. *Id.* at 1. In light of the novelty of Filing Online to Commission proceedings, together with the fact that the new website capabilities have apparently yet to be built, perhaps a two-step process should be

¹ PRC Order No. 1317, *Notice and Order Concerning Electronic Filing Procedures*, June 13, 2001.

considered in order to fine tune the procedures based on actual experience, with special rules preceding adoption of new final rules.

2. *Will the version 5 of Adobe Acrobat eliminate the problem of changed formats and pagination in an expeditious fashion at the point of finalizing a document to meet a deadline?*

When Postal Service attorneys experimented with the previous form of electronic filing—which was really a hybrid that still required the filing of hard copy—we encountered problems that led us to simply file the document as a word processing file rather than one which was “true to the document filed.” After finalizing a document in a word processor, we would attempt to convert the document to PDF using Adobe Acrobat 4 for signing and filing. But the conversion process would often result in pagination or other formatting changes that made the document unsatisfactory for signature and filing.

From the perspective of postal attorneys, the process of creating PDFs for electronic filing must be made as simple as the current process of printing a document that is identical to the final Word or WordPerfect document one has produced on one’s screen, signing that document, and handing it over to support staff for copying and filing. As filing time approaches each day, there simply is no time for additional work, especially for frustrating or insoluble computer manipulations, particularly during the discovery period when scores of documents may be filed by the Postal Service each day.

With respect to Adobe Acrobat issues, the Postal Service hopes that the interoperability of various Adobe Acrobat versions can be addressed further. For example, while version 5 is apparently necessary to create RTF documents from PDF documents which themselves are created directly from the documents’ native applications, will Filing Online users also require that version or will the ubiquitous version 4 be sufficient? Also, what version is necessary strictly to read documents posted via Filing Online as opposed to creating them from native applications?

3. *How does the Commission propose to deal with "collateral files"?*

One particular strength of Filing Online, according to the Commission, is that each electronic document posted to its website would be "true to the document filed." Order 1317, at 2. The Postal Service experience in recent dockets, however, leads us to believe that there are some complications that remain to be addressed to meet this goal. The discussion in the Order seems to assume that the creation of a document by a participant, and ultimately a PDF file from that document, is a relatively simple matter. We believe the Commission is aware that there is not always a one-to-one correspondence between a document filed with the Commission and documents generated by the participant in order to create that one filed document.

Pleadings and their content are often accompanied by "collateral files": attachments, exhibits, workpapers, library references, witness declarations, certificates of service, etc. The pleadings and their content are typically created using a word processor such as Word or WordPerfect; these readily lend themselves to being saved as PDF files and typically provide the content most useful when made available as RTF files. By contrast, collateral files may originate in one or more of several forms. Taking as an example a set of interrogatory responses, collateral files might be: Excel spreadsheets; SAS files in mainframe or PC SAS or only in hard copy; material scanned from hard copy in one of several possible formats; and hard-copy manuals or other documentation, or even physical material such as Priority Mail envelopes that can only remain in their original form. None of these collateral files lend themselves to conversion to PDF files. Although some, such as Excel spreadsheets, do lend themselves to electronic format, the incorporation of even these files with pleadings and other material into a single PDF file is a cumbersome process compared to the simplicity of assembling hard copies. Moreover, the incorporation of scanned tables, drawings and exhibits into word processing files tends to increase file sizes tremendously and many of the PaperPort scanners available to Postal Service employees (none of them attorneys) are limited in the types of files that can usefully be created.

The Postal Service is concerned that Filing Online will increase the work by attorneys and support staff required for filing of documents. Currently, much of the copying and distribution of filed documents is done in the evening hours by a contractor. Filing Online could increase the work that must be done at the busiest time just *before* filing deadlines. For example, the proposed additional requirement to enter metadata such as the party name and document title for each document filed—information which is redundant of information already required to be included in the title or on the cover sheet of all documents filed— could be a source of difficulty. This difficulty might be able to be alleviated by batch uploading of documents with their metadata, an issue which is discussed further below.

One potential side effect of Filing Online could be the increased use of library references for material that, while modest in size, is only available or meaningful in hard copy. Since the Commission has recently revised its rules regarding library references, this does not appear to be problematic. But, keeping in mind that many library references have an electronic component, it may be that standards for the posting of such components could piggy back on standards set for Filing Online. An understanding of the Commission's experience in the last omnibus case regarding what participants actually downloaded or requested by way of library reference materials and how these requests correlated with the size of the documents could inform this discussion as well as help address the next issue.

4. *Should there be a file size limit?*

The establishment of size guidelines for Filing Online should be considered. The network on which Postal Service employees' personal computers reside has a file size limitation built into its routers that precludes the email exchange of messages (including attachments) larger than three megabytes. Since Postal Service employees typically share documents via these routers, this standard could serve as a useful guidepost for Filing Online. It might be useful if the Commission could present whatever data it has as to whether and to what extent users of its website actually download very large files.

5. *Can declarations and certificates of service be eliminated?*

As a way to eliminate complexities in document assembly and due to the changes that would flow from electronic filing, the Commission should consider eliminating written declarations and certificates of service. Written declarations are, even at present, unnecessary, since no interrogatory answers are entered into the record until specifically attested to by the witness, either at hearings or by written declaration once designated by other participants. Eliminating the need to electronically incorporate the separate page containing the signature of a witness, who is often at a remote location from the attorney filing the document, would simplify assembly of documents for electronic filing. Hard-copy declarations are already often filed late, and separately from the interrogatory answers they reference, due to logistical difficulties.

With Filing Online, moreover, certificates of services would also seem unnecessary, since service is deemed to have been made once the document is electronically filed with the Commission and posted on the Commission's website.

6. *Does the requirement to download certain DLL files restrict access to users of Windows and Internet Explorer?*

The Commission notes that certain DLL files must be downloaded onto a Filing Online participant's personal computer. Attachment to Order 1317, at 1. Since the Postal Service has rather strict standards regarding what may be loaded on its users' computers (so that all applications can co-exist compatibly and so that the support infrastructure is fully aware of what it is supporting), this download must be approved by the Postal Service information systems group. Although no difficulty is expected in this regard, it does appear that the download presumes that participants' systems are running Windows and Internet Explorer. This does not create a problem for the Postal Service in general. The question arises, however, as to whether postal staff working at home, postal consultants, or other participants using Macintosh computers or Netscape will encounter problems with this download.

7. Does Filing Online as proposed provide sufficient security?

Technical literature is replete with high-tech tools that afford different levels and types of security: encryption, non-repudiation, authentication, trusted third party, certificate authority, digital signatures, message integrity, electronic postmark. While some of these issues are addressed implicitly in the proposal, others are not. Since the Commission website is inherently public, the primary security tools proposed for Filing Online consist of (1) a hard copy application requiring a conventional signature by which the signatory attests in advance to the authenticity of all documents filed using (2) a login name and password whose privileges are controlled by the webmaster. This relatively low-tech approach has the attributes of simplifying both security control and the user interface. However, that very simplicity increases the relative probability that it can be attacked or penetrated. The Postal Service urges the Commission to consider stronger security measures both during initial development and in the longer run.

Security measures can be divided between website security and ensuring message integrity. Website security is largely the Commission's own responsibility and the Postal Service understands that the Commission has maintained its focus on this. The responsibilities inherent in participants' applications for and use of login names and passwords appears to address that portion not under the Commission's immediate control. However, it may be useful to discuss means by which message integrity and authentication should be handled in the future, whether for the short- or long-term. Because participants often file errata, because documents may include erroneous or extraneous material, and because of the limited controls on the electronic filing of documents, it may also be worth including in Filing Online an express means for repudiating specific documents.

Other simple measures that could be implemented in the near-term future might include: required periodic password changes; suspension of unused accounts after a defined period (presumably subject to re-activation upon request), strong back-up procedures and perhaps a mirror system that could be switched into service if the main system becomes corrupt for any reason. On the other hand, if the Commission concludes that the existing arrangements are sufficient, perhaps these issues should be

tabled for the time being. In any event, the speed and accuracy of a switch back to a pure hard copy system in the event of catastrophic failure of the Commission website or the Internet itself should also probably be discussed at the conference.

8. *Are the account holders' work areas necessary?*

At first blush, the creation of an account holder's "work area"² appears unnecessarily complex. In particular, the need for a user to edit "submitted" but not "filed" documents appears unnecessary. If a user has need to change a file that has not been filed, the change should probably occur on the user's own computer with the changed version then overwriting the submitted one. Perhaps the procedures should include provisions for "same-day errata" to correct errors that are discovered in documents electronically submitted. The recognition in this section that a given pleading may well consist of multiple electronic files is, however, quite accurate.

9. *Will the procedures accommodate batch uploading as well as downloading and uploading of metadata?*

Since a participants are likely to have more than one document to file on a given day, Filing Online should facilitate uploading files in batches, just at the Commission's website now allows for batch downloading. In addition, it would be useful if the metadata used by the Commission to identify documents could easily be downloaded by a participant and if the metadata contemplated to be required by the Commission's procedures (name, title, etc.) could also be uploading as part of the batch process

10. *How will the Commission identify documents actually filed?*

Another issue not addressed by Order 1317, but which appears implicit in Filing Online, is how the Commission will identify those documents actually filed from those that are not. Some means of identifying official docket documents must be contemplated or the elimination of questions about filing, service, and due dates

² Attachment to Order 1317, at 3-4

contemplated by the Order at page 2, could not be assured. Given that version 4 of Adobe Acrobat has a ready capability for pasting scanned signatures into documents, and that the legal world is most comfortable working with documents that appear to have been signed, these authentication issues should be the subject of a discussion at the conference.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Kenneth N. Hollies

A handwritten signature in black ink, appearing to read "Scott L. Reiter", is written over a horizontal line.

Scott L. Reiter

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2999; Fax -5402
July 6, 2001